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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,882	03/31/2004	James A. Mulvihill	1-74541	7572

27377 7590 07/08/2005

MACMILLAN, SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA-FOURTH FLOOR  
720 WATER STREET  
TOLEDO, OH 43604

EXAMINER

PATEL, KIRAN B

ART UNIT PAPER NUMBER

3612

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/814,882

Applicant(s)

MULVIHILL ET AL.

Examiner

Kiran B. Patel

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 13-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-12, 18-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

Non-Final Rejection

### **Election/Restriction**

1. Applicant's election with traverse of Species A, Fig 1-4, Claim(s) 1-9, 11-12, 18-19 is acknowledged. The traversal is on the ground(s) that search for the additional inventions and/or Species would not create an undue burden upon the Examiner. This is not found persuasive because search for the additional inventions and/or Species would create an undue burden upon the Examiner.

Claim(s) 10, 13-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions and/or species, there being no allowable generic or linking claim.

The requirement is still deemed proper and is therefore made FINAL.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim(s) 1-3, 5-7, 9, 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Stevenson (6,554,340).

Regarding Claim(s) 1-3, 5-7, 9, 11-12, Stevenson (6,554,340) discloses the invention as claimed to include vehicle storage assembly for a vehicle cargo area 14 comprising: a storage panel 36; and a flange portion 32 extending outwardly from an end of said storage panel, wherein said flange portion is adapted to be mounted to an interior component of a vehicle 10 such that said storage panel is positionable to a stowed position, and a deployed position for dividing at least a portion of the vehicle cargo area; wherein said storage panel is pivotally mounted to said interior component of said vehicle; wherein one of said flange and said interior component

has one of a pin 70 and an opening and the other of said flange and said interior component has the other of said pin and said opening to facilitate mounting said storage panel to said interior component; wherein said storage panel extends across the width of the vehicle cargo area to divide the vehicle cargo area; wherein said flange portion includes a first opening and a second opening in communication Fig 2A with one another, said first opening defining a first pivot point and said second opening defining a second pivot point, said first opening and said second opening each adapted to receive a pin to facilitate pivotable movement of said storage panel between said stowed position and said deployed position; wherein said interior component of said vehicle includes at least one spring Fig 5A loaded pin corresponding to each of said openings within said at least one flange portion; wherein said flange portion comprises a pair of flanges 32, 34, each of said pair of flanges on a respective end of said storage panel, and wherein said storage panel may be mounted to said vehicle by said pair of flanges; wherein said storage panel rests on top of said load surface of said vehicle when said storage panel is in said slowed position; wherein said storage panel is tapered Fig 1A such that an upper surface of said storage panel tapers to meet said load surface when said storage panel is in said stowed position.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim(s) 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson (6,554,340) in view of Bott (5,167,479).

Regarding Claim(s) 4, Stevenson (6,554,340) discloses the invention as claimed.

However, Stevenson (6,554,340) does not disclose a storage panel in stowed position is parallel to a load surface.

Bott (5,167,479) discloses a storage panel in stowed position is parallel to a load surface (abstract).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Stevenson (6,554,340), to include a storage panel in stowed position is parallel to a

load surface, as disclosed by Bott (5,167,479), to maximize the storage in the storage area.

4. Claim(s) 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson (6,554,340) and in view of ordinary skill in the art.

Regarding Claim(s) 8, Stevenson (6,554,340) discloses the invention as claimed.

However, Stevenson (6,554,340) does not disclose a flexible panel.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the flexibility of a panel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use to optimize the cost of the product made in light of size, availability, capacity to manufacture, manufacturing technology, transportability, optimize the number of parts, safety and other considerations and still meet the design specifications. Higher level of cost efficiency can be achieved by using the flexibility of the panel to insert in the storage area and eliminate need for the spring loaded pin and minimize the cost.

5. Claim(s) 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson (6,554,340) in view of Stevenson (6,609,743).

Regarding Claim(s) 18-19, Stevenson (6,554,340) discloses the invention as claimed.

However, Stevenson (6,554,340) does not disclose a C-shaped handle.

Stevenson (6,609,743) discloses a C-shaped handle 68.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Stevenson (6,554,340), to include a C-shaped handle, as disclosed by Stevenson (6,609,743), to assist in moving the storage panel.

### **Conclusion**

6. The prior art made of record in attached Notice of Reference Cited (PTO-892) and not relied upon is considered pertinent to applicant's disclosure. This art of record shows various features similar to the applicant's invention.


1. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 571-



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272-6665. The examiner can normally be reached on M-F from 8:00 to 5:00. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

  
Kiran B. Patel, P. E.  
Primary Examiner  
Art Unit 3612  
July 2, 2005